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South Carolina House of Representatives

# Legislative Update

David H. Wilkins, Speaker of the House

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No. 2

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## Legislative Update, January 24, 1995

### House Week in Review

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Representatives began the second week of the 1995 session by taking up vetoed bills from the 1994 session. Of the 39 bills or portions of bills vetoed by former Governor Campbell, the General Assembly sustained all but 1 of those vetoes (overriding only the veto of a local bill pertaining to the Charleston County School District). The veto receiving the most spirited and comprehensive debate was the former governor's veto of H. 3385, a portion of which contained provisions to bring South Carolina into compliance with the new federal "Motor Voter" Act. (This act requires states to offer voter registration opportunities at certain locations, with the goal of increasing voter registration across the country). Representatives seeking to override this veto noted South Carolina's low ranking when compared to other states in terms of voter participation and felt that more efforts should be made to improve on this statistic. Those seeking to sustain the veto, however, claimed the bill was another unfunded mandate and that the federal government was overstepping its authority in telling states how and where to conduct voter registration activities. After nearly an hour of questioning, debate and speeches, the House sustained this veto, with 44 members voting to override and 67 voting to sustain the veto. Twenty-nine (29) of the 39 vetoes by the former governor dealt with items in the 1994-1995 General Appropriation Act or in the 1994 Supplemental Appropriations Act. Among the non-budgetary vetoes which were sustained by the House was H. 4414, the Schoolhouse Safety Alliance Act of 1994.

On Wednesday afternoon, following several hours of debate, the House adopted H. 3238, a bill providing for "truth-in-sentencing," by a vote of 116 to 0. With its supporters claiming the bill would restore "truth and credibility" to the criminal justice system, this legislation abolishes parole and requires offenders to serve most of their imposed sentence before being eligible for work release or other credits. Additionally, offenders are required to complete a community supervision program. Third reading was given to the bill the following day.

On Thursday, the House passed H. 3103, a bill authorizing the Department of Social Services to pursue state and federal tax refund offsets for delinquent child support payments; and H. 3104, a bill revising the definition of "support order" for income withholding purposes. Also that day, objections to H. 3281, a proposed constitutional amendment to limit the terms of state legislators and statewide-elected constitutional officers (such as attorney general, secretary of state), placed that proposal on the contested calendar.

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### Bills Introduced

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Listed in this Update are summaries of some of the bills introduced last week. The bill summaries are arranged in numerical order according to the committee to which the legislation was referred.

### EDUCATION AND PUBLIC WORKS

Dealers' Licenses (H. 3287, Rep. Kirsh). This bill deletes the requirement that the sale and exchange of motor vehicles must be the principal business conducted from a dealer's place of business in order for the dealer to obtain or maintain a motor vehicle dealer's license.

Student-Initiated Voluntary Prayer at School Activities and Events (H. 3303, Rep. Davenport). This bill authorizes student-initiated voluntary prayer (of a nonsectarian, nonproselytizing nature), invocations or benedictions at school-related student events (such as student sporting events and school-related student assemblies), whether these activities are conducted on public school property, other public property or other property. Exercise of these rights is not to be construed as indicating approval of the prayer, promotion or establishment of any religion or as an unconstitutional use of public or other property by the State, its instrumentalities (boards, commissions, etc.) or its political subdivisions. The bill also allows a teacher or school administrator in a State school supported in whole or in part by State funds to permit voluntary participating by students or others in prayer; however, these provisions do not authorize the teacher or other school authority to prescribe the form or content of a prayer.

Installation of Right-of-Way Entrances (H. 3305, Rep. Kennedy). This bill requires the Department of Highways and Public Transportation to install right-of-way entrances and aprons for existing businesses, with the length of an entrances limited to 250 feet.

Special License Plates for Regional Tourism Commissioners (H. 3322, Rep. McAbee). This bill authorizes the issuance of special license plates for private motor vehicles registered in the names of members of regional tourism commissions. Only 1 plate may be issued per person, with the biennial fee for this specialized plate being \$30 (in addition to the regular motor vehicle registration fee). The plate must be issued or revalidated biennially for the regular license period.



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**Optional Methods for Counties To Finance Transportation Facilities** (H. 3323, Rep. Martin). This bill authorizes counties to establish transportation authorities to finance the cost of acquiring, constructing, equipping and operating highways, roads, streets and bridges, either alone or in partnership with the State Department of Transportation. These provisions are meant to be additional and alternative method of financing highway and bridge projects to those already provided under the State Highway Bond Act, State Turnpike Bond Act, and Revenue Bond Act for Utilities.

A governing body may pass an ordinance establishing a transportation authority, subject to these provisions and holding of a referendum. If a county chooses to finance the costs of these transportation projects alone, then members of the authority board must be appointed by the county governing body as it so determines, but if the county enters into partnership with the State Department of Transportation, then the Commission must have designated appointees on the board. The bill lists the powers of the board of authority, which includes, among others, the power of eminent domain, making contracts to provide transportation facilities, borrowing money, issuing bonds, and acquisition and disposal of property.

A county establishing an authority is empowered to impose one or both sources of revenues, as follows:

One source is via enactment of a 1 percent sales and use tax within its jurisdiction, for a specific purpose and a specific period of time to collect a limited amount of money. The county governing body may impose this tax, specifying the purpose for which proceeds of the tax are to be used (which can include projects inside and/or outside the county boundaries and which may include highways, streets, roads and bridges, along with jointly operated projects of the county and the State Department of Transportation); the maximum time (not exceeding 25 years) for which the tax may be imposed; and the maximum cost of the project and facilities to funded in whole or in part from tax proceeds and the maximum amount of net proceeds to be raised by the tax. The referendum also must contain a question concerning authorization of bonds as general obligation bonds, so that revenues derived from this optional tax can be pledged to the repayment of the bonds. Upon receipt of the ordinance, the county election commission must conduct a referendum on imposition of this tax. If the tax is approved, then it takes effect the first day of the month occurring 180 days after the date of the referendum. If this optional tax is imposed for more than 1 purpose, the governing body of the jurisdiction authorizing the referendum must determine the priority of expenditure of the net proceeds of the tax. This tax is in addition to all other local sales and use taxes, but gross proceeds subject to a maximum sales tax are exempt from this extra tax, and gross proceeds from sale of food stamps also are exempt from this tax.

Another source allows the authority to enter into partnership with the State Department of Transportation relating to turnpike facilities, allowing the authority to construct and operate designated highways and



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bridges as "turnpike facilities" as a part of the state highway or any federal aid system. Under this partnership agreement, the authority can utilize funds available for maintenance of the state highway system for maintenance of any turnpike facility financed pursuant to this act. The authority may issue toll revenue bonds to provide all or a portion of the cost of these facilities after adopting a resolution setting forth certain matters (e.g., toll facility proposed to be constructed, time for which toll shall be imposed).

State Department of Education to Compile List of Unnecessarily Burdensome Regulations (H. 3324, Rep. Davenport). This joint resolution directs the State Department of Education to compile a list of state and local regulations imposed on schools which the Department considers as unnecessarily burdensome, with the Department's findings reported to the General Assembly by July 1, 1995. These findings must include recommendations to eliminate outdated, duplicative or unnecessary regulations imposed on schools.

Higher Age Required To Obtain a Beginner's Driving Permit (H. 3328, Rep. Richardson). This bill would raise the minimum age necessary to qualify for a beginner's driving permit from 15 years old to 15 years and 6 months old (15-1/2) and also requires a person under 16, when driving under this permit, to be accompanied by a driver age 21 or older who has had a minimum of 5 years driving experience and who occupies a seat beside the driver (except when the permittee is operating a motorcycle).

## JUDICIARY

Rights of Breast Implant Victims Who Are Members of Settlement Class in Silicone Breast Implant Case (H. 3262, Rep. Harrison). This bill ensures the rights of breast implant members who are members of the Settlement Class of the In Re Silicone Gel Breast Implant Products Liability Litigation to bring an action for personal injury or death. This action may be commenced within 30 days after the date of completion of any opt-out period or within 30 days after termination of the Breast Implant Litigation Settlement Agreement (in the litigation as underlined above), whichever is later. The bill further provides that a cause of action for personal injury or death related to breast implant or breast implant materials of a member commenced before these provisions are effective cannot be dismissed based on a period of limitations.

Distribution of Property Confiscated Pursuant to Seizure of Controlled Substances (H. 3264, Rep. Anderson). This bill revises the formula by which proceeds of sales of property confiscated due to controlled substance violations are distributed. Under current law, 75 percent of proceeds are distributed to the law enforcement agency; 20 percent are distributed to the prosecuting agency; and 5 percent is deposited to the credit of the state's general fund. If this legislation

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is adopted, however, proceeds would be distributed as follows: 25 percent to the law enforcement agency(ies); 25 percent to the law enforcement agency(ies), to be given to private citizens who give information leading to forfeiture of the property (if applicable); 25 percent to the law enforcement agency or agencies for establishment and operation of community-based substance abuse facilities; 20 percent to the prosecuting agency; and the remainder deposited to the credit of the state's general fund.

Written Termination of Lobbying Effective 6 Months from Date of Filing (H. 3265, Rep. Cromer). Current law requires any lobbyist required to register because he engages in such activity to file a written statement with the State Ethics Commission upon termination of lobbying, with the statement of termination effective immediately. If this legislation is adopted, however, the statement of termination would be effective 6 months from the date of filing that statement.

Parent Cannot Receive Monetary Benefits Upon Death of Child if Parent's Conduct Would Have Constituted Grounds for Termination of the Parent's Rights (H. 3266, Rep. Cromer). This bill, except in limited circumstances, prohibits a parent of a child, regardless of the child's age, from receiving monetary benefits from the death of the child if the parent's conduct while the child was under age 18 would have constituted grounds for termination of parental rights. (Under the State's "Children's Code", the Family Court may order "termination of parental rights" under certain conditions, such as if the parent is addicted to drugs or alcohol or has inflicted permanent physical damage on the child.) The prohibition against the parent's reception of these monetary benefits, however, does not apply if the parent is specifically named as a beneficiary or recipient in the child's will, an insurance policy, or any other document executed by the child naming the parent to receive benefits upon the child's death.

Verdicts of Circuit Court Petit Juries Require Affirmation of 10 or More Jurors (H. 3267, Rep. Cromer). This is a proposed constitutional amendment to provide that 10 or more members of a petit jury of the Circuit Court must agree on a verdict in order to render one. (Currently, all 12 members must agree to render a verdict.) Additionally, this proposal would provide that jurors in other trial courts must be unanimous in rendering a verdict (i.e., votes of all jurors required to render a verdict), unless otherwise provided by law.

Murder of Actual or Potential Witness an Aggravating Circumstance in Considering Imposition of Death Penalty (H. 3268, Rep. Richardson). This bill would make the murder of a witness or potential witness in a criminal case committed to deter prosecution an aggravating circumstance in considering imposition of the death penalty for murder.

Increased Penalties for Intimidating Jurors, Witnesses or Court Officials (H. 3271, Rep. Richardson). This bill would increase the



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penalties imposed on a person convicted of intimidating court officials, jurors or witnesses. Under current law, a person convicted of this offense must be fined not more than \$2,000, or imprisoned not more than 5 years, or both fined and imprisoned. If this legislation is adopted, however, the penalties would increase to a fine of between \$5,000 and \$15,000 and imprisonment of at least 5 years.

Higher Age, Legal Experience Requirements for Justices and Judges and Establishment of Judicial Merit Selection Panel to Nominate Judicial Candidates (H. 3274, Rep. Hodges). This proposed constitutional amendment would enact more stringent age and legal experience requirements for purposes of election to the Supreme Court, Court of Appeals, or Circuit Court. Under this proposal, the minimum age to qualify for election to these courts would increase from 26 to 32, while the number of years a person must have been a licensed attorney at law to qualify for such election would increase from 5 years to 10 years. Any justice or judge serving in office at the time these changes are made but who does not meet the new requirements may continue to serve for the remainder of his current term and is considered to have met the new age and legal experience requirements for purposes of future elections to that position. Finally, this proposal would require the General Assembly to establish a Judicial Merit Selection Panel to consider qualifications of candidates seeking positions on courts filled by election of the General Assembly (i.e., Supreme Court, Court of Appeals, Circuit Court, Family Court). The General Assembly would be required to elect the judges and justices from the nominees of the panel to fill a vacancy on these courts, and the General Assembly would be prohibited from electing anyone to these courts who was found "not qualified" by the panel.

Higher Age, Legal Experience Requirements for Family Court Judges (H. 3275, Rep. Hodges). This bill raises from 26 to 32 the minimum age necessary to qualify for election to Family Court and increases from 5 years to 10 years the minimum time a person must be a licensed attorney at law to qualify for election to that court. Any family court judge serving in office at the time these provisions become effective, but not meeting the new age/legal experience requirements may continue to serve the remainder of their current term and are considered to meet the new requirements for purposes of future re-elections to that court. These provisions would become effective upon ratification of a constitutional amendment (authorized above in H. 3274) increasing the minimum age/legal experience necessary to qualify for election to the Supreme Court, Court of Appeals, or Circuit Court.

Creation of Judicial Merit Selection Panel (H. 3276, Rep. Hodges). This bill creates a Judicial Merit Selection Panel to assist the General Assembly in selecting qualified judges and justices for vacancies on the Supreme Court, Court of Appeals, Circuit Court, Family Court and the Administrative Law Judge Division. This 7-member panel consists of the following:

- (a) 2 members appointed by the governor;



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(b) 1 member from the Senate membership, appointed by the President Pro Tempore of the Senate;

(c) 1 member from the House membership, appointed by the Speaker;

(d) Dean of the USC School of Law (or his designee from the law school faculty), to serve ex-officio;

(e) President of the South Carolina Bar (also serving ex-officio), or a designee who must be an attorney licensed to practice law here; and

(f) One member appointed by the Chief Justice of the Supreme Court, with this member being a retired member of this State's judiciary or of the federal judiciary and not engaged in the practice of law. This member serves as the panel's chairman.

Panel members serve 4-year terms and (except for ex-officio members) cannot serve consecutive terms. Additionally, panel members are not eligible for the judicial positions for which they make nominations while serving on the panel and for 3 years after ceasing to be a member.

The panel must determine when there are vacancies in these judicial positions and must investigate the qualifications of those seeking nomination by the panel. The state court administrator must notify each judge and justice whose term expires in a particular year of this fact by July 1 of the preceding year. The judge or justice is assumed to be seeking another term unless he notifies the administrator within 30 days after notice that he is not seeking re-election. The administrator must notify the panel of the choice the judge or justice makes by August 15 of the preceding year. The bill provides for the panel's notification of the Supreme Court, State Bar and newspapers of these vacancies. Persons seeking nomination must apply with the commission and must give the panel a general waiver, allowing it to obtain information the commission considers necessary to make a judgment of the applicant's qualifications.

In judging an applicant's qualifications, the commission must look, among other things, at his character, legal ability and judicial temperament, and must schedule a public hearing concerning candidates' qualifications. Persons seeking to provide testimony must do so in writing and under oath, with anyone furnishing false information subject to penalties provided by law for perjury and false swearing. During the investigation, the panel also may go into executive session, where the candidate and others may be interviewed concerning qualifications for the office to be filled. The panel may administer oaths, take dispositions and issue subpoenas to compel the attendance of witnesses and the production of information. No person is excused from attending and testifying at these hearings or producing documents for them on grounds that these activities would incriminate him or subject him to penalty or forfeiture, although this person may not be prosecuted for his testimony or evidence after claiming his privilege of self incrimination. The bill permits a hearing not to be held if there is no known opposition to an incumbent judge or justice.

After considering qualifications, the panel must submit to the General Assembly no more than 3 candidates whom it considers best



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qualified for the judicial office under consideration, and the panel may make a recommendation to the General Assembly of the candidate it believes is most capable of filling the position. If the panel finds that fewer than 3 applicants were qualified, it must submit only the names of those found qualified along with an explanation of why fewer than 3 names were submitted. The General Assembly may not elect a person who was not nominated by the panel, but this does not prevent the General Assembly from rejecting all persons nominated, in which case the panel must submit additional nominees. If an incumbent judge or justice is found "not qualified" by the panel, then his position is declared vacant and further nominations must be submitted. If the incumbent is found qualified by the panel but is rejected by the General Assembly, then the panel must submit additional nominations.

A sitting member of the House or Senate seeking one of these judicial positions must first resign his seat before the panel can accept or consider his application, and the former member cannot be granted the privilege of the floor in the General Assembly while the application is pending before the panel and during the time his nomination by the panel for election is pending in the General Assembly. No person may seek the pledge of the General Assembly's vote or contact a member of the General Assembly regarding the judicial office (other than through letter of introduction), nor may a member of the General Assembly offer his pledge, until qualifications of all candidates for the office have been determined by the panel and furnished to the General Assembly.

Implementation of these provisions is contingent on ratification of a constitutional amendment (summarized above in H. 3275) authorizing establishment of this panel, in which case these provisions take effect July 1, 1997 and apply to judicial vacancies occurring after December 31, 1997.

Term Limits (H. 3281, House Judiciary Committee; and H. 3340, Rep. Seithel).

H. 3281 is a proposed constitutional amendment to limit legislators and statewide-elected constitutional officers (other than the governor and lieutenant governor, who still would have a two-term limit) to 12 years in office, with House members limited to 6 complete two-year terms, Senators limited to 3 complete four-year terms, and statewide-elected constitutional officers limited to 3 complete four-year terms. This limitation would apply whether the time in any particular office is consecutive or non-consecutive (in other words, if a House member served 4 years and then sat out 1 term, he could only another 8 years in his post). However, this limitation only applies to future service; a person in their respective office at the time this constitutional amendment is ratified could continue to serve his then-current term but thereafter could only serve another 12 years in office.

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H. 3340 is a proposed constitutional amendment which would limit members of the House and Senate to 8 complete years in office (i.e., 4 complete 2-year terms for House members, 2 complete 4-year terms in the Senate). Unlike H. 3281, the term limitations of H. 3340 would be retroactive, with prior service in either body counting toward this 8-year limit. A person in either chamber serving in office at the time this constitutional amendment is ratified and who has served at least 8 years in their respective body would be permitted to finish their then-current term but would be barred from any further service in that particular chamber. This 8-year limitation applies whether the service in either body is consecutive or non-consecutive (for example, a Senator under this limitation could only serve 8 consecutive years or 4 years, followed by a break in service, and another 4 years.) Unlike H. 3281, H. 3340 does not place any term limitations on statewide-elected constitutional officers (such as secretary of state, attorney general, etc.).

Best Interests of Child in Child Custody Disputes (H. 3282, Rep. Neilson). This bill provides that the best interests of the child is the overriding principle by which the Family Court must be guided in resolving a dispute over child custody or visitation. Unless a parent is found to be unfit or is geographically removed from the child, the child's best interests are considered to be served when the order of the court equally promotes and encourages the ongoing development of the child's relationship with each parent. In awarding custody and granting visitation the court must attempt to equalize the time the child spends with each parent and to equalize and promote opportunities for each parent to be informed of and involved in the child's life both in and out of school. These provisions do not require an award of joint or divided custody, and visitation awarded under these provisions is not to be construed as joint or divided custody.

Accounting of Child Support Expenditures (H. 3283, Rep. Neilson). This bill authorizes the Family Court, in its discretion and upon a showing of good cause, to require a parent or custodian of a child who receives child support on behalf of the child to submit to the parent paying the support and/or to the court an accounting of expenditures made from the child support received and evidence of these expenditures.

Guidelines and Procedures Manual for Court-Appointed Guardians Ad Litem To Be Developed (H. 3284, Rep. Neilson). This joint resolution requires the South Carolina Court Administration to develop a Guidelines and Procedures Manual for use by court-appointed guardians ad litem, with the manual addressing such matters as family court procedures and the role, responsibility and scope of authority of the guardian ad litem. The manual, to the extent funds permit, must be given to every court-appointed guardian ad litem, and in the alternative must be available to the guardian ad litem at the clerk's office in the family court in each judicial circuit. At the very least, each guardian ad litem must be given a condensed version of the manual.



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Family Court May Order Joint Custody (H. 3285, Rep. Neilson). This bill authorizes the Family Court to order joint or divided custody where the court finds this is in the best interests of the child.

Family Court May Order Any Amount of Visitation (H. 3286, Rep. Neilson). This bill authorizes the Family Court to order any amount of visitation, with this visitation not to be construed as joint or divided custody.

Member of General Assembly Cannot Vote for Himself if a Candidate for an Office Elected by the General Assembly (H. 3290, Rep. Rogers). This bill prohibits any member of the General Assembly from voting for himself in an election in which he is a candidate for an office that is filled by election of the General Assembly.

Meetings of a Legislative Caucus Must Be Open to the Public (H. 3291, Rep. Rogers). This bill, identical to H. 3091 (also referred to the House Judiciary Committee), would amend the State's Freedom of Information Act to require meetings of a legislative caucus to be open to the public.

Offense of Child Endangerment (H. 3292, Rep. Rogers). This bill creates the offense of child endangerment, a situation in which (a) [1] a person, while operating a vehicle, commits reckless homicide, [2] is driving under the influence of drugs or alcohol (DUI), or [3] inflicts great bodily injury or death while DUI; and (b) a minor is present in the vehicle when the violation occurs. Upon conviction, the driver must be punished as follows:

(a) Mandatory fine or imprisonment of not less than one-half the maximum fine or imprisonment allowed for committing any violation listed in (a-1, 2 or 3) above (i.e., DUI, etc.), if the person is fined or imprisoned for the offense; or

(b) Both mandatory fine and imprisonment of at least one-half the maximum fine/imprisonment allowed when the person is fined and imprisoned for the offense.

No portion of these penalties for child endangerment can be suspended or revoked, nor may probation be granted. A person may be convicted of child endangerment in addition to being convicted of the offenses (such as DUI) which create a situation of "child endangerment". When a person is arrested for this violation, the arresting officer must proceed with emergency protective custody if necessary.

Victims' Bill of Rights (H. 3293, Rep. Rogers). This proposed constitutional amendment would provide for a "Victims' Bill of Rights," giving crime victims judicial and procedural rights as the defendant's case proceeds through the court system. Under this proposal, a victim has the right to be treated with dignity and compassion; to be protected from intimidation and harm; to be present at and be informed of all criminal proceedings where the defendant has the right to be present; to be heard at all trials and court proceedings at which the accused has the right to be heard; and to confer with the prosecution regarding plea negotiations.

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Additionally, the victim has the right to be provided accurate and timely information about the accused, convicted or adjudicated (where detained, sentencing, etc.); to receive reparation and restitution from the person(s) adjudicated responsible for or convicted of the criminal conduct which caused the victim's loss or injury; and to a speedy trial or disposition of the case after the conviction and sentence.

For purposes of this proposed constitutional amendment, "victim" means a person against whom a criminal offense has been committed, except that if the person is killed or incapacitated, it means the person's spouse, parent, child or guardian (unless the person is the accused). Additionally, a victim's exercise of rights granted under this constitutional amendment cannot be grounds for dismissing a criminal proceeding or setting aside a conviction or sentence.

Definition of "Violent Crime" Expanded To Include the Injuring or Killing of Someone while DUI (H. 3294, Rep. Rogers). This bill expands the statutory definition of "violent crime" to include the injuring or killing of a person while operating a vehicle under the influence of alcohol or drugs.

### Judicial Nominating Commission (H. 3296 and H. 3297, Rep. McElveen).

H. 3296 is a proposed constitutional amendment which would require the General Assembly to establish a Judicial Nominating Commission to consider the qualifications and fitness of candidates for judicial positions on courts (i.e., Supreme Court, Court of Appeals, Circuit Court and Family Court) filled by election of the General Assembly. The commission is charged with nominating the best qualified applicants for these court vacancies, and the General Assembly must select the judges and justices from among the nominees of the commission to fill a court vacancy. This proposal also would prohibit the General Assembly from electing anyone to these judicial positions who has been found "not qualified" by the commission.

H. 3297 is a bill to create the South Carolina Judicial Nomination Commission, for the purpose of assisting the General Assembly in selecting qualified judges and justices to vacancies on the Family Court, Circuit Court, Court of Appeals and Supreme Court. This commission consists of 7 members, as follows:

(a) 3 members elected by the House, none of whom may be members of the General Assembly. At least 2 members must be active members of the South Carolina Bar (admitted to practice for at least 5 years), and the remaining member may not be a lawyer;

(b) 3 members elected by the Senate, with the same qualifications as members elected by the House (cannot be legislators, must be in Bar, etc.);

(c) 1 members appointed by the governor, who is not a member of the General Assembly and who also may not be a lawyer.



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Commission members serve staggered 3-year terms and are unable to succeed themselves (except for those whose initial terms were 2 years or less), nor are commission members eligible for nomination, election or appointment as a judge or justice on these courts while serving on the commission and for 3 years after ceasing to be a member. Additionally, no member of the General Assembly may be elected as a judge or justice of these courts while a member of the General Assembly and for 1 year after ceasing to be a member.

The bill allows the commission, upon sufficient funding from the General Assembly, to employ clerical and stenographic assistance as may be necessary to carry out these provisions. The commission must determine when vacancies are to occur in these 4 courts and investigate in advance the qualifications of those seeking nomination. The commission must announce vacancies and forthcoming vacancies on these courts, with persons wishing to be considered for nomination required to apply with the commission. Persons and organizations (except for the commission) also may submit names. In carrying out these provisions, the Commission also must set procedures for receipt of public statements in support or opposition of candidates; public hearings when testimony is taken or evidence received; and meetings in executive session when the commission considers this necessary. The commission also must adopt regulations addressing such matters as confidentiality of information received concerning judicial candidates and the conduct of proceedings before the commission.

The bill lists factors the commission must examine in judging nominees, which, among others, include constitutional qualifications, character, experience and judicial temperament, and allows the commission to receive judicial evaluation information conducted by the State Bar on each candidate for judicial office from custodians of this data. The commission may authorize, if there has not been one, a survey on the candidate by the Bar, and also is authorized to obtain information relative to any candidate from any state agency or other group. The commission also may issue subpoenas requiring the appearance of persons or production of documents and other things.

After examining qualifications of judicial candidates, the commission must submit to the General Assembly the names of nominees, with recommendations as to whether each is "qualified", "highly qualified", or "not qualified" for the position under consideration. If the commission determines that no candidate is qualified or highly qualified, it must begin the nominating process again. If the General Assembly rejects candidates nominated by the commission, then the commission must come up with additional nominees. No candidate for these judicial positions may campaign among or lobby members of the General Assembly, nor may a person seek on pledge on his or another's behalf from the General Assembly until the commission has submitted nominations to the General Assembly. Additionally, no member of the House or Senate can pledge his vote to any candidate for these judicial offices until the nominations have been submitted.

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This implementing legislation would take effect upon ratification of a constitutional amendment (summarized above in H. 3296) authorizing establishment of the commission.

**Family Responsibility Act of 1995 (H. 3298, Rep. McElveen).** This bill calls on persons with the closest family connection to a person likely to be a public charge or otherwise receive public assistance to support that person before the citizens of South Carolina. Under these provisions:

---A stepparent is legally chargeable with support of a stepchild likely to become a public charge if it is shown to the court's satisfaction that the stepparent had knowledge of the child's existence at the time of the stepparent's marriage to the child's parent.

---If children are born as result of cohabitation, then the cohabitants have all duties and obligations of support owed to a legitimate child. A cohabitant may be required to support his partner and contribute to the support of his partner's children of a prior relationship if the child resides with the cohabitants and the child (and partner) are likely to become public charges. The court also may equitably apportion property acquired during cohabitation as in cases of marriage.

---An adult child who has sufficient income after reasonably providing support for his own immediate family must maintain and support his parent(s) if they lack sufficient means or ability to support themselves.

---A pregnant woman must name the putative father of a child as a condition for eligibility for government or public assistance (such as Medicaid and food stamps). A man acknowledging paternity or who is determined to be the father of the child is responsible for paying a proportionate share of all prenatal, natal and postnatal care provided to the mother and/or child. If the putative father is under 18, parents of the mother and putative father must be made parties to the action, but if the father and mother are unable to fully meet the obligations, then the maternal and paternal grandparents must pay all or a portion of these expenses (contingent on their having sufficient income after providing support for themselves).

---The Family Court has authority to hear proceedings, make determinations and order payment of support in situations as listed above.

**Public Notification of Residency of Sex Offenders (H. 3300, Rep. Limehouse).** This bill provides for public notification of sex offenders residing within a community. Under these provisions, the sex offender registry must provide public notification when a sex offender is residing or intends to reside in a community. Additionally, within 45 days after receiving notification from the Department of Corrections, the Department of Probation, Parole and Pardon, or the Department of Juvenile Justice of



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the release of a sex offender, the sheriff of the county where the offender is residing must post the name of this offender in a publicly accessible location in his office.

**Paid Leave to Participate in Specialized Disaster Relief Services of the Red Cross** (H. 3301, Rep. L. Whipper). This bill provides that a state employee entitled to annual leave who is a certified disaster service volunteer of the American Red Cross (hereafter "Red Cross") may be granted a yearly maximum of 15 days leave from work with pay to participate in specialized disaster relief services for the Red Cross. The employee must be released from work for this function upon the Red Cross's request for the employee's services and upon approval of the employee's employer.

**Fraudulent Acquisition of Public Funds** (H. 3302, Rep. Davenport). This bill prohibit anyone from obtaining or attempting to obtain, or aiding another person in obtaining, public funds or benefits (such as Food Stamps, Medicaid, public assistance grants) to which the person is not entitled under a social, health or nutritional program except as authorized under federal or state law or regulations. This offense is a felony if the value of benefits acquired or used is \$1,000 or more (punishable upon conviction by a fine of not more than \$5,000 and/or imprisonment not exceeding 5 years) and a misdemeanor if the value of benefits acquired or used is under \$1,000 (punishable upon conviction by a fine not exceeding \$500 and/or imprisonment not exceeding 3 years---except that if value is \$200 or less, the case must be prosecuted in magistrate's court and punishment is not more than permitted by law without presentment or indictment of the grand jury).

This legislation also makes it unlawful for an individual, partnership, corporation or other legal entity to issue Food Stamp Program benefits or to use, transfer, acquire or possess benefits from this program in a manner not authorized by federal or state law/regulations. An entity violating these provisions is guilty of a felony (if the value of the food stamp benefits is \$100 or more), punishable upon conviction by a fine not exceeding \$10,000 and/or imprisonment not exceeding 5 years, while the offense is a misdemeanor if the value is under \$100 (punishable upon conviction by a fine not exceeding \$1,000 and/or imprisonment not exceeding 1 year). Additionally, the entity may be suspended from participating in the Food Stamp Program for a period as provided by federal law or regulation. The bill also provides that in prosecutions for public assistance fraud, the State may consider each benefit paid a separate offense or may consider the cumulative total of all past benefits paid as one offense.

**Referendum on Whether Confederate Flag Should Continue To Fly atop the State House** (H. 3304, Rep. Sharpe). This bill would require a binding statewide referendum to be held at the November 1996 general election as to whether or not the Confederate Battle Flag should fly atop the State House. If a majority of those voting in the referendum favors the flying of the flag, then it must be flown beginning upon certification of



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results; however, if a majority of voters is against the flag flying, then it cannot be flown above the State House.

**Forfeiture of Motor Vehicles for Certain Offenses** (H. 3306, Rep. Simrill). This person provides for forfeiture of a motor vehicle if a person is convicted of a second or subsequent, instead of a fourth or subsequent, violation within the last 5 years of operating a motor vehicle while his license is canceled, suspended or revoked and also provides for such forfeiture upon a second or subsequent, instead of a fourth or subsequent, violation within the last 10 years of driving a vehicle while under the influence of intoxicating liquor or drugs.

**Police Retirement Allowances** (H. 3308, Rep. Waldrop). Current law provides several options of retirement benefits under the Police Officer Retirement System. This bill increases the contributions into this system of "Class One" members from \$21 to \$21.18, with a "Class Two" member required to pay 7.39 percent of his compensation (up from 6.5 percent). Additionally, a person under "Option 1" would be entitled to a full, rather than reduced, retirement allowance, and to the extent the actuarial cost of the beneficiary's allowance under this option exceeds the cost of the member's benefit under Option 2, the member's retirement allowance must be reduced to offset the actuarial cost in excess of the member's benefit under Option 2. A person under Option 2 also is entitled to a full, instead of reduced, retirement benefit, except that to the extent the actuarial cost of the beneficiary's allowance under this option exceeds 15 percent of the member's maximum benefit, the member's retirement benefit must be reduced to offset the cost in excess of 15 percent of the member's maximum benefit.

**Offense of Simple Trespass** (H. 3309, Rep. R. Smith). This bill establishes the offense of "simple trespass", defined as a situation in which a person, without legal cause or good excuse, enters another person's premises but without intent to harm property. A person convicted of this crime must be fined between \$35 and \$100 and may be imprisoned not more than 60 days.

**Payment for Support or Treatment of Child** (H. 3310, Rep. Rogers). This bill allows the solicitor of a county to petition the court to order parents of a child (1) committed by the court to custody other than that of the child's parents or (2) given medical, psychological or psychiatric treatment under order of the court, to pay child support when the child is committed to or detained in the custody of a county detention facility or the Department of Juvenile Justice. The bill also provides that all expenses of a child committed to the Department of Juvenile Justice must be borne by the State except as the expenses otherwise are provided for by law.

**Voter Registration by Mail** (H. 3311, Rep. Rogers). Current state law allows a person to register to vote by mail so long as his registration application is witnessed by a registered voter of the applicant's same



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county. This bill would delete the provision requiring the witness to be from the same county as the applicant and instead would only require that the application be witnessed by any registered voter of this State, regardless of county.

Election Appeals To Be Heard by Administrative Law Judge (H. 3312, Rep. Rogers). This bill requires an Administrative Law Judge, instead of the State Board of Canvassers, to hear cases under protest or contest that arise in elections (i.e., contesting the outcome of an election).

Members of State Election Commission May Not Participate in Certain Election Activities (H. 3314, Rep. Rogers). This bill prohibits a member of the State Election Commission from participating in political management or in a political campaign during the member's term in office and also prohibits commission members from making a contribution to a candidate or knowingly attending a fundraiser held for the benefit of a candidate. A commission member violating these provisions is subject to removal by the governor.

Person Delinquent in Making Child Support Payments May Be Required To Pay the Arrearage and Interest on the Arrearage in Certain Manner (H. 3319, Rep. Thomas). This bill authorizes the Family Court to require a person delinquent in making court-ordered child-support payments to pay the arrearage and interest on the arrearage, with interest calculated in the same manner as for money decrees and judgments of courts.

Restrictions on Use of Personal Watercraft (H. 3320, Rep. Cooper). This bill lists restrictions on the operation of personal watercraft and specialty propcraft while on the State's waters.

Under these provisions, a "personal watercraft" is a boat less than 16 feet long which has an outboard motor or an inboard motor which uses an internal combustion engine powering a water jet pump as its primary source of motive propulsion; is designed with the concept that the operator and passenger ride on the outside surfaces of the vessel (instead of riding on the inside); and has the probability that the operator and passenger may fall overboard in the normal course of use. This type of watercraft includes, without limitation, a vessel where the operator and passenger ride on the outside surfaces of the vessel (even if the primary source of motive propulsion is a propeller), and a vessel commonly known as the "jet ski." A "specialty propcraft" is a vessel similar in appearance and operation to a personal watercraft but which is powered by an outboard or propeller-driven motor.

Among other restrictions, a person may not operate on the State's waters a personal watercraft or specialty propcraft:

(1) unless each person aboard the vessel is wearing U.S. Coast Guard-approved personal flotation devices;

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(2) in excess of the no wake speed within 25 feet of a moored or anchored vessel, wharf, dock or pier or within 50 feet of a person in the water;

(3) in such a manner as to disturb or harass wildlife (except when engaged in lawful hunting, fishing or trapping activities);

(4) while towing a water skier or person on a floating device unless the watercraft is equipped with a mirror permitting the operator to observe the person being towed or carrying a person other than the operator who is in position to observe the person being towed;

(5) in such a manner which unreasonably or unnecessarily endangers life (such as weaving through congested vessel traffic).

A person violating these provisions is guilty of a misdemeanor, punishable upon conviction by a fine of not more than \$200 or imprisonment not exceeding 30 days.

These provisions do not apply to operation of personal watercraft or specialty propcraft by law enforcement, emergency medical, civil defense, military, state and federally-approved wildlife, and those involved in biological research programs while in performance of official duties, nor do these provisions apply to activity on private waters or to performers engaged in professional exhibitions or persons preparing to participate in a officially sanctioned regatta, race, etc.

Members of General Assembly Convicted of or Pleading Guilty To Crimes Carrying Certain Imprisonment Length To Be Expelled from Office (H. 3325, Rep. Knotts). This proposed constitutional amendment would require any member of the General Assembly who pleads guilty or nolo contendere to, or is convicted of a crime in state or federal court, the penalty for which includes a term of imprisonment for 2 or more years, to be expelled from the body. Upon expulsion, the office is considered vacant and must be filled as provided by law.

Educational Requirements for Licensure as Bail Bondsman (H. 3327, Rep. J. Brown). This bill imposes educational requirements on persons seeking licensure as a bail bondsman or renewal of such license. Under these provisions, an applicant seeking licensure must complete at least 20 hours of education in subjects pertinent to the duties and responsibilities of this position. In order to renew the license, at least 6 hours of continuing education in subjects relevant to the position must be completed annually, although this continuing education requirement does not include an examination requirement. A person licensed as a bondsman before these provisions is effective is not subject to the 20-hour education requirement imposed on new applicants but is subject to the continuing education requirements for renewal of license. The bondsman association for the State must provide education for bail bondsman licensure and is responsible for approving the courses offered and ensuring that the education meets general standards for education established by the Department of Insurance. Anyone falsely representing these educational requirements is guilty of a misdemeanor.



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**Campaign Practice Restrictions (H. 3338, Rep. Jennings).** This bill prohibits a candidate from giving or promising anything of value to an election official and also prohibits an election official from demanding or receiving anything of value from a candidate. This restriction applies from the beginning of an election cycle until the time the candidate files a final campaign report. The bill defines "election official" as a member or employee, whether elected or appointed, of (1) a municipal, county or state election commission; (2) a county voter registration board; (3) a combined election commission and voter registration board; or a member or employee of a municipal, county or state party executive committee, or a municipal, county or state poll manager or poll worker. The bill also increases from 10 to 15 years the maximum imprisonment which may be imposed for procuring another to vote for or against a candidate or measure in an election or for a person to accept such procurements. The definition of "transfer", as pertains to campaign practices, is expanded to include exchange of funds or anything of value between a candidate and an election official. Payments made to an individual, candidate, public official, etc. related to efforts by or behalf of a candidate, political party, etc. to promote a candidacy of an official or passage or defeat of a measure, or to encourage voter registration, must be made by check and not in currency. When funds are paid to an individual recipient from a campaign account under these provisions, all funds expended by the individual must be documented as to the specific goods and service obtained. No candidate or duly authorized officer or committee may pay any person for transporting persons to polling places any amount other than reimbursement for actual mileage in an amount which would exceed mileage allowed by law for members of state boards, committees and commissions. Additionally, the amount paid for transporting voters to polling places cannot exceed the amount paid official poll managers by the State Election Commission.

**Drivers Entering Emergency Scene Must Use Caution and Drive at Reasonable Speed (H. 3339, Rep. Koon).** This bill requires a driver of a motor vehicle entering an emergency scene to use caution and drive at reasonable speed, with failure to abide by these requirements a misdemeanor, punishable upon conviction by a fine of between \$200 and \$500, or imprisonment of not more than 30 days, or both fine and imprisonment.

The bill also lists requirements pertaining to the presence of emergency workers at these scenes. The emergency scene is under control of the first arriving emergency worker until that authority is passed to another emergency unit or agency, and all motor vehicles passing through this scene must obey this personnel. Emergency personnel may delegate emergency scene management authority to provide an adequate safety level. Finally, any paid or volunteer worker at an emergency scene has proper authority to be at the scene.

**LABOR, COMMERCE AND INDUSTRY**

**Assistance to Minority Business** (H. 3272, Rep. Richardson). Current law provides for assistance to minority business for purposes of the State's Procurement Code, with a socially and economically disadvantaged small business being one which is at least 51 percent owned by persons determined to be socially and economically disadvantaged. This bill provides that a business which by written agreement will meet the 51 percent ownership requirement within 5 years of the contract award date qualifies as a socially and economically disadvantaged small business. The agreement must provide for an incremental increase in qualifying ownership in each of the 5 years. The bill also provides that for purposes of awarding of state source highway fund contracts to disadvantaged minorities and women, a business not otherwise eligible which agrees to meet this 51 percent requirement within 5 years must be certified as eligible to participate, with an incremental increase in qualifying ownership required during that time.

**Unfair Insurance Competition** (H. 3321, Rep. Harvin). This bill declares a particular insurance practice an unfair method of competition and an unfair or deceptive practice or act. Under these provisions, it is illegal for an insurer to establish a contract or agreement with any business entity to manage, handle or arrange insurance repair work or to act as an agent for the insurer in any manner where the entity sets a price which must be met by the repair shop as a condition of doing claims repair work for the insurer and then retains a percentage of the claim paid by the insurer.

**Prohibited Workers Compensation Payments** (H. 3329, Rep. Richardson). This bill prohibits the State Workers' Compensation Commission from allowing payment of any benefits under the State's Workers' Compensation Law to an injured employee or his dependents who receive similar benefits by virtue of federal law from the U.S. Government, or its agencies or quasi-agencies, for the same injury. The Commission must institute legal proceedings as necessary to recover state benefits under these provisions which may have been paid, or which may have been authorized to be paid, inadvertently or otherwise in contravention to these provisions.

**Regulation and Licensing of Businesses Selling Checks and Money Orders and Cashing Checks for Consideration** (H. 3333, Rep. Keyserling). This bill requires any person or corporation (except for such entities as a bank or credit union) seeking to engage in the business of selling or issuing checks to first obtain a license from the Department of Consumer Affairs. To qualify for this license, the applicant must demonstrate it is financially responsible and able to conduct such business in an honest and efficient manner and must comply with bonding requirements, furnishing of statements, and paying of fees as prescribed under these provisions. The



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bill lists information which must be listed on the application and requires the application to be filed with an investigation and supervision fee established by department regulation and a corporate surety bond in the principal sum of \$100,000 and in an additional principal sum of \$5,000 (until the aggregate principal sum is \$250,000) for each location in excess of 1 at or through which the applicant proposes to engage in this State in the business of selling or issuing checks. In lieu of the corporate surety bond, the applicant may deposit bonds, notes or other federal or state obligations with the Department or a bank or trust company in this state.

If this criteria is met, the Department must issue the applicant a license to engage in the business of selling and issuing checks in this State, with the license in effect the remainder of the calendar year following its date of issuance. A licensee is required to give notice to the Department of any action which may be brought against it and of any judgment which may be entered against it by a creditor or claimant with respect to a check sold or issued in this state. Additionally, licensees must notify the Department of any increase in the number of locations where it engages in selling or issuing checks. The Department may suspend or revoke an original or renewal license for violations of this act or for failure to pay a judgment recovered in a court within this State by a claimant or creditor in an action arising out of the licensee's business in South Carolina of selling or issuing checks.

This legislation also requires any person, partnership, association or corporation seeking to engage in the business of cashing checks, drafts or money orders for consideration (except for banks, trust companies, etc. chartered under South Carolina law or federal law and domiciled in this state) to obtain a license from the Department of Consumer Affairs. The bill lists information required on the application and requires it to be filed with an investigation and supervision fee as established by regulation. The Department must issue a license to engage in these activities if (1) the applicant is financially responsible and appears to be able to conduct his business in an honest, fair and efficient manner, and (2) granting the application will promote the convenience and advantage of the are where the business is to be conducted. No license may be issued if the applicant, or a person who is a director, partner, etc. of the applicant has been convicted of a felony involving moral turpitude in any jurisdiction or of a crime which if committed within this state would under our state law constitute a felony involving moral turpitude. To assure compliance with these provisions governing check cashing and for license renewal applications, the Department may examine the books and records of any licensee, with the licensee required to pay an examination fee as established by department regulation to cover the cost of the examination.

The bill lists record-keeping, identification, check-cashing fees and other requirements for purposes of operating check cashing businesses and lists conditions under which the persons' license may be suspended or



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revoked (such as for committing fraud, misrepresentation, incompetency). Anyone violating these cash-checking provisions (persons, partnerships, associations, corporations and their officers, employees, etc.) is guilty of a misdemeanor, punishable upon conviction by imprisonment not exceeding 1 year or fine of not more than \$500, or both fine and imprisonment

**Optional Writing of Certain Auto Insurance Coverage** (H. 3335, Rep. Cato). This bill makes it optional, instead of mandatory, for automobile insurers to make available collision coverage and either comprehensive of fire, theft and combined additional coverage to persons seeking such coverage and deletes certain factors pertaining to refusal to write physical damage insurance coverage. Additionally, insurers writing single collision coverage must provide an applicant for such insurance at time of application a separate notice, to be signed by the applicant, indicating that this is single interest collision coverage, with the amount of this coverage decreasing as the amount of his indebtedness is paid off and a prohibition against receiving insurance proceeds over and above the amount of outstanding balance on the loan. This legislation also makes it unlawful to consider certain characteristics of an applicant (such as race, color, religion, economic status, location of residence) in determining auto insurance premium rates, with an insurer participating in these discriminatory practices subject to a maximum fine of \$200,000 as imposed by the Director, or his designee, of the Department of Insurance. Insurers subject to the provisions of this act must submit rate filings to the Director of the Department of Insurance within 12 months following this act's effective date, with the filings reflecting any rate decreases attributable to passage of this act.

**Recoupment Fees Must Remain at Fiscal Year 1994-1995 Levels** (H. 3336, Rep. Cato). This joint resolution requires recoupment fees for private passenger automobile liability insurance policies to remain at fiscal year 1994-1995 levels and prohibits these fees from being increased until the General Assembly takes further action specifically allowing such increase.

**Raising of Threshold Monetary Levels as Pertains to "Chargeable Accidents"** (H. 3337, Rep. Scott). Current law requires automobile insurers to offer two different rates for auto insurance---a "base rate", and an "objective standards" rate, which is 25 percent higher than the base rate. An applicant must be written at the "objective standards" rate if, among other things, he has had at least 2 "chargeable" accidents within the 36 months immediately preceding the effective date of coverage, with a "chargeable" accident currently defined as one resulting in bodily injury to any person in excess of \$300 per person, death, or damage to the property of the insured or other person in excess of \$750. This bill would raise the monetary threshold levels for chargeable accidents, so as to provide that a chargeable accident is one resulting in bodily damage to any person in excess of \$600 per person, death, or damage to the property of the insured or other person in excess of \$1,000. These higher threshold amounts apply only to accidents occurring after June 30, 1995 and also



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apply to any merit rating plan promulgated by the Director of the Department of Insurance or his designee.

### **MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

Licensed Continuing Care Retirement Community Operating a Home Health Agency and a Nursing Home May Share Certain Services between that Agency and Home (H. 3269, Rep. Richardson). This bill provides that if a continuing care retirement community (licensed under State law governing such communities) operates a home health agency and a nursing home, then the Department of Consumer Affairs must allow the home health agency and nursing home to share administration, supervision and services (to the extent such sharing will not reduce care, safety of patients served by both) and must coordinate annual licensing inspections. Additionally, a home health agency is not required to obtain a certificate of need prior to licensure if it (1) is a licensed continuing care retirement community which allows its residents to obtain home health services from other home health agencies, and (2) furnishes or offers to furnish home health services only to residents who live in living units provided by the licensee pursuant to a continuing care contract.

Permission Required to Use Body Parts Removed from Dead Body During Autopsy for Organ or Tissue Donation (H. 3334, Rep. Keyserling). This bill prohibits body parts removed from the body during performance of an autopsy or postmortem from being used for purpose of organ or tissue donations unless authorization for the donation was obtained from the decedent pursuant to the Uniform Anatomical Gift Act or from a person otherwise authorized to consent to the donation. Additionally, when a county medical examiner performs an autopsy on a person who died because of violence or under suspicious circumstances, the examiner must notify the family or next of kin of the decedent of any organs or tissue removed from the body of the decedent in performance of the autopsy. In order to authorize donation of all or any part of a decedent's body, a person must receive counseling provided by and witnessed by a health care professional or social worker; sign a statement acknowledging this counseling (witnessed by the health care professional or social worker who witnessed the counseling); and sign a consent form, with this form written in plain English which is understandable by a lay person.

### **WAYS AND MEANS**

Reduction from 30 to 25 of Number of Years Creditable Service a Member of State Retirement System Must Accumulate in Order To Retire without Penalty (H. 3263, Rep. Walker). This bill reduces from 30 years to 25 years the minimum years of creditable service a member of the South Carolina Retirement System must have in order to retire at any age without

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reduction in benefits. This reduction is to be phased in over a 5-year period, as follows:

<u>Fiscal Year of Retirement</u>	<u>Creditable Service Needed to Retire With Full Benefits</u>
1995-1996	29 years
1996-1997	28 years
1997-1998	27 years
1998-1999	26 years
1999 or later	25 years

The bill also increases employee contributions to the Retirement System, such that the percentage of earnable income of "Class One" members deducted for the System increases from 5 percent to 6.5 percent of earnable income through June 30, 1999 and to 7 percent thereafter. As for "Class Two" members, the percentage of earnable income deducted for the System increases from 6 percent to 7.5 percent through June 30, 1999 and to 8 percent thereafter. The bill also deletes provisions pertaining to early retirement and purchase of additional service credit for such purpose for members retiring after June of 1999.

**State Income Tax Deduction for all Retirement Income of Persons over Age 64** (H. 3270, Rep. Richardson). Current law, for purposes of state income tax deductions, allows a person under 65 who receives retirement benefits two options---(a) deduct an annual maximum of \$3,000 retirement income; or (b) defer claiming this retirement deduction until the taxable year he reaches 65, at which time he may deduct annually a maximum of \$10,000. This bill would delete those options, instead providing a retirement income deduction regardless of amount to the person who before or during the applicable taxable year has reached age 65. This deduction extends to a deceased taxpayer's surviving spouse (regardless of age), but only for retirement income attributable to the deceased. Retirement income received by a surviving spouse attributable to the deceased taxpayer who died before age 65 may be deducted by the surviving spouse beginning in the taxable year the deceased taxpayer would have reached 65. If adopted, these provisions apply to taxable years beginning after 1994.

**Elimination of Biennial Fee for Purple Heart Special License Plates** (H. 3273, Rep. Townsend). This bill deletes the biennial fee for issuance or renewal of special license plates of recipients of the Purple Heart, instead providing that this plate is a permanent plate, and also deletes provisions requiring Purple Heart special license plates to be issued biennially.

**Abolishment of Agency Head Salary Commission** (H. 3288, Rep. Kirsh). This bill abolishes the Agency Head Salary Commission and provides that salaries of agency heads may only be set in the annual general appropriations bill.



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**Birthday of Dr. Martin Luther King, Jr. a Mandatory State Holiday** (H. 3289, Rep. J. Brown). This bill would make the birthday of Dr. Martin Luther King, Jr. a mandatory state holiday, to be observed at the same time as the federal holiday---the third Monday in January. (Under current state law, observance of this holiday is optional, with state employees allowed to select this day or another holiday or day as an optional "day off" from work.)

**Veterans' Trust Fund** (H. 3290, Rep. McAbee). This bill establishes the Veterans' Trust Fund of South Carolina, the resources of which must be dedicated to serving the needs of the State's veterans by supporting programs (both public and private) for them. The fund may support veteran service programs by direct funding or through donation of property and services. This fund may supplement and augment, but must not take the place of, services provided by state agencies. In order to carry out the activities to administer the Fund, this bill creates an 11-member board of trustees, of whom 1 member must be the director (or his designee) of the Veterans' Affairs Division and 10 members must be appointed by the governor, with the advice and consent of the Senate. All trustees must be U.S. armed forces veterans with honorable discharges, with the governor's appointees serving 4-year terms and no member serving more than 8 continuous years.

The bill lists the duties and functions of the board, which include, among others, assessing the needs of veterans and developing goals and objectives for the Trust Fund; acquiring and holding property; accepting gifts, grants and bequests; employing a director and other staff necessary to carry out functions of these provisions; and entering into contracts for awarding of grants to public or private nonprofit organizations.

No more than 50 percent of amounts deposited in the fund each year from contributions plus earnings from investment of monies of the fund credited during the previous fiscal year (after allowing for operating expenses) may be disbursed until assets of the Fund exceed \$3 million. When the \$3 million figure is surpassed, all credited earnings plus all future annual deposits to the fund from contributions are available for disbursement upon authorization of the board of trustees.

The bill also allows persons filing a South Carolina income tax return to designate a contribution to this fund, with the contribution neither increasing nor decreasing the taxpayer's income tax liability. The Department of Revenue and Taxation must determine annually contributions made on the income tax filings to this fund and transfer the total amount to the fund at the earliest possible time.

**Extension of State Targeted Jobs Tax Credit** (H. 3299, Rep. D. Smith). This bill extends the state's targeted jobs tax credit (currently provided to corporations) to sole proprietors, partnerships, corporations of any classification, limited liability companies or association and allows the credit to be claimed against the individual income tax

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liability of the proprietor, shareholder of an S corporation, partner of a partnership, or member of a limited liability company. The amount of the credit allowed is equal to the shareholder's percentage of stock ownership, partner's interest in the partnership, or member's interest in the limited liability company for the taxable year multiplied by the amount of the credit to which the taxpayer would have been entitled if it were taxed as a corporation. The bill also deletes a provision limiting eligibility for the targeted jobs tax credit for shareholders of a "Sub S" Corporation to such corporation eligible to use the fee in lieu of taxes under State law.

**Consumption of Alcoholic Liquors To Be Regulated by General Assembly** (H. 3317, Rep. Thomas). This is a proposed constitutional amendment to delete detailed requirements for the regulation of alcoholic liquors and beverages by the General Assembly (requirements such as selling of these items in minibottles, regulation of hours when these beverages can be sold, etc.) and to allow the General Assembly to regulate consumption of these beverages.

**Elimination of Minibottle** (H. 3318, Rep. Thomas). This bill deletes provisions for sale of alcoholic beverages and liquors in "minibottles" and instead allows for the sale of liquor by the drink. The bill also prohibits alcoholic liquors from being sold in South Carolina in containers of less than .375 milliliters and imposes an excise tax equal to 20 cents on each alcoholic beverage poured in an establishment or organization licensed to sell liquor by the drink, with revenues from this tax to be used for the same purposes as the revenues of the former minibottle tax

**Individual Medical Account Act** (H. 3326, Rep. Richardson). This bill authorizes the creation of individual medical accounts, (hereafter called "account(s)") a trust established to pay the eligible medical, dental and long-term care expenses of the account holder. A resident individual may establish and make contributions to this account, with the amount of deposit for the first taxable year subsequent to these provisions' effective date not exceeding \$2,000 for the account holder or \$2,000 for the account holder and \$1,000 for each child of the account holder. The maximum allowable amount of deposit for subsequent years must be increased according to increases in the Consumer Price Index. Interest earned on this account is exempt from taxation as adjusted gross income in South Carolina. The bill permits an employer to contribute to the employee's account or to his existing health insurance policy or program (upon agreement of the employer and employee).

This account must be established as a trust under State law and placed with a trustee, with the trustee required to purchase long-term care coverage for each account holder to cover all medical, dental and long-term care expenses in excess of \$10,000 and required to utilize the trust assets solely for the purpose of paying the medical, dental and long-term care expenses of the account holder.



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Account funds may be withdrawn by the account holder at any time for any purpose, except that there is a early withdrawal penalty of 10 percent of interest earned as of the date of withdrawal, with the interest earned during the tax year subject to state taxation. Additionally, once an account holder reaches age 60, withdrawals are permitted only for medical, dental or long-term care expenses, with these withdrawals being without penalty. When the account holder dies, the account principle and any interest must be distributed to the decedent's estate and taxed as part of the state.

If adopted, these provisions would be applicable for tax years beginning after 1995.

**Property Tax Exemption for Certain Boats and Motors** (H. 3330, Rep. Tucker). This bill would provide a property tax exemption for boats and motors required to be titled when not used in a trade or business.

**Firefighters and Emergency Medical Service Personnel May Deduct Subsistence Allowance from State Income Tax** (H. 3332, Rep. Keyserling). This bill, for purposes of filing state income tax returns, allows full-time firefighters and emergency medical service personnel to deduct as a subsistence allowance \$5.00 (five dollars) a day for each regular work day in a taxable year. If adopted, these provisions would apply to taxable years beginning after 1994.

## WITHOUT REFERENCE

**Termination Date of South Carolina Real Estate Appraisers Board** (H. 3331, Rep. Kirsh). This bill deletes a provision subjecting the South Carolina Real Estate Appraisers Board to "sunset review" (i.e. examination of whether the Board is to continue in existence), and terminating the Board's programs, functions and regulations on June 30, 1995.

**Board of Podiatry** (H. 3307, Rep. J. Brown). This bill revises the composition of the Board of Podiatry Examiners and makes several changes regarding practice of podiatry, as follows:

---Provides that the Board must consist of 5 members, instead of 4, with the members appointed by the governor with the advice and consent of the Senate. 2 of the members are at-large appointments, 1 being a lay member and 1 being a podiatrist. 3 members represent geographical districts of the State---1 each from the "Upper District" (Piedmont), the "Central District" (Midlands) and "Lower District" (Coastal areas.) The board must conduct an election to nominate 3 podiatrists from each district, of whom the governor will choose 1 (from each district). Podiatrists licensed and residing in the particular district for which the nomination is being made may participate in the election. The at-large appointments serve conterminously with the appointing governor, while the

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members representing the 3 districts serve 4-year terms. District members cannot serve more than 1 term in office, except if they fill an unexpired term, in which case they may run for another term. The governor may remove a member of the board who is guilty of continued neglect of board duties or who is found to be incompetent, unprofessional or dishonorable, although a member cannot be removed without first being given the opportunity to refute the charges filed against him.

---Requires the Board to offer Podiatry examinations at least twice annually.

---Allows the Board to grant a license without examination to a person residing or employed in this State who at the time of application is licensed or certified by a similar board of another state whose standards, in the opinion of the Board, are not lower than those required in South Carolina, or who has been practicing podiatry in another state and has qualifications not lower than those required in South Carolina, if the state where the person is licensed or certified or where the person has been practicing podiatry or chiropody extended the same reciprocal privileges to podiatrists or chiropodists in South Carolina.

---Deletes a requirement that podiatry licenses be recorded in the office of clerk of the county where a licensee resides.

---Provides that in determining whether a license to practice podiatry is to be suspended or revoked because of the licensee's addiction to alcohol or drugs or sustinment of a physical or mental disability rendering further practice dangerous to the public, the board may require a licensee or applicant to submit to a mental or physical examination by physicians designated by the board, with results of the examination admissible in a hearing before the board. Additionally, the board may obtain records relating to the mental or physical condition of a licensee or applicant. If the licensee or applicant fails to submit to the examination or refuses to consent to the board's obtainment of these records (except in circumstances beyond the licensee's control), then the board must enter an order automatically suspending or denying the license pending compliance and further order of the board.

---Requires the medical staff chief or medical director of each health care facility to report to the Board of Podiatry Examiners results of actions resulting in revocation, suspension or other limits on a podiatrist's privileges to practice in that health care facility.

---Provides that on the effective date of these provisions (which take effect upon approval by the governor), terms of present members of the Board expire, and the Department of Labor, Licensing and Regulation must temporarily assume the board's duties until new board members are appointed and qualify to take office in accordance with these provisions.

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